



California Health Sciences University

CHSU POLICY & PROCEDURES FOR CLAIMS OF UNLAWFUL DISCRIMINATION, HARASSMENT & TITLE IX MISCONDUCT

I. PURPOSE

CHSU is committed to creating and maintaining an inclusive environment, where all individuals can achieve their academic and professional aspirations free from sexual misconduct, and other forms of unlawful discrimination, harassment, or related retaliation. The purpose of this policy is to: (a) explain the prohibited conduct related to sexual misconduct, and other forms of unlawful discrimination, harassment and retaliation; and (b) outline the process by which CHSU processes complaints regarding sexual misconduct, unlawful discrimination, harassment and/or retaliation.

The intent of this policy is to provide for CHSU to act consistently with its legal obligations under Title IX of the Education Amendments of 1972 (“Title IX”), Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, Uniformed Services Employment and Reemployment Rights Act (“USERRA”) of 1994, the Equal Pay Act of 1963, the Age Discrimination Act of 1975, Title I and Title IV of the Americans with Disabilities Act (“ADA”) of 1990 and as amended by ADA amendments Act of 2008, the Immigration Reform and Control Act of 1986 (“IRCA”), the Rehabilitation Act of 1973, Genetic Non-Discrimination Act of 2008 (“GINA”), and other applicable federal and state anti-discrimination laws.

CHSU recognizes that the law in these areas, particularly regarding Title IX, are shifting frequently. To the extent this policy conflicts with federal or state law, CHSU will act in compliance with law.

This policy shall be reviewed annually to determine if modifications are appropriate.

II. APPLICATION AND SCOPE

All members of the CHSU community, including CHSU employees, students, third-party contractors and vendors, independent contractors, and any third party who enters CHSU facilities are governed by this policy. Voluntary disenrollment of a student or resignation of an employee during an investigation conducted under this policy will not affect the applicability of these procedures in resolving any complaint under this policy.

This policy applies to prohibited conduct alleged to have occurred: (a) on CHSU property; (b) in connection with CHSU activities, programs, or events; (c) online or off-campus where the conduct affects the CHSU learning or working environment, has a continuing adverse effect on campus, or would violate other University Policies had it occurred on campus.



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Additionally, throughout this policy there will be some procedures that will be followed only in matters where the conduct alleged includes Title IX Prohibited Conduct (defined below). This is because the legal requirements applicable to Title IX Prohibited Conduct are significantly different than other laws. Where applicable, these differences in procedure will be identified in the policy as a “Title IX Procedure.”

III. ESTABLISHMENT OF THE OFFICE OF THE TITLE IX, EQUITY AND DIVERSITY COORDINATOR

The President of the University shall appoint a University-level administrator to serve as CHSU’s Title IX, Equity and Diversity Coordinator (“Coordinator”). Notification of any complaint under this policy can be made directly to the Coordinator in person or via mail at 120 N. Clovis Avenue, Clovis, CA, 93612, or via email TitleIX@chsu.edu (for Title IX Prohibited Conduct) or Concerns@chsu.edu (for all other complaints). The Coordinator shall be responsible for overseeing the implementation and administration of this policy, as well as other equity and diversity initiatives on CHSU’s campuses.

Additionally, with respect to Title IX Prohibited Conduct, the Coordinator shall:

- A. Coordinate compliance with Title IX, including investigations, reports and remedies.
- B. Provide mandatory, annual sexual violence and sexual harassment prevention education and training programs to all members of the University campus, including as follows:
 - i. Provide training regarding how such conduct can be reported, to all students, faculty, other academic appointees, and staff in accordance with applicable state and federal law, and University policies.
 - ii. Provide training for University employees who are responsible for reporting or responding to reports of prohibited conduct.
 - iii. Provide comprehensive, annual training with a trauma-informed perspective for any individual responsible for any part of the investigation or disciplinary process under this policy.
 - iv. Offer primary prevention programs and awareness campaigns to the University community to promote ongoing awareness of sexual violence, including preventing



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dating violence, domestic violence, sexual assault, and stalking. These campaigns may include, but are not limited to, education about the definition of consent, consensual relationships, options for bystander intervention, trauma-informed approaches, and risk reduction awareness information. These programs are to promote behaviors that foster healthy and respectful relationships while also encouraging a safe environment for bystanders to intervene in a potential case of dating violence, domestic violence, sexual assault, or stalking.

- C. Provide educational materials to promote compliance with the Policy and familiarity with reporting procedures, and post on the CHSU's website the names and contact information of the Title IX Coordinator and other information regarding Title IX and this policy.
- D. Provide prompt and equitable response to reports of prohibited conduct according to the Policy.
- E. Maintain records of reports of prohibited conduct, as well as any actions taken in response to reports, including records of investigations, resolutions, and disciplinary action, in accordance with University records management policies.
- F. Identify and address any patterns or systemic problems that arise during the review of prohibited conduct reports.
- G. Coordinate with the College Student Affairs Dean to provide support for both complainants and respondents during the Title IX process.

IV. CONDUCT PROHIBITED BY THIS POLICY

This policy prohibits the conduct listed below. Further definitions applicable to such conduct are provided in section V, below.

- A. **Unlawful Harassment & Discrimination Based on Actual or Perceived Protected Classes**: This policy prohibits any form of harassment or discrimination on the basis of race; color, national origin (including possessing a driver's license issued under Vehicle Code § 12801.9), or ancestry; gender/sex, gender identity, transgender status, sex stereotyping or gender expression; age; physical or mental disability, perceived disability



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or perceived potential disability; pregnancy or perceived pregnancy, childbirth, breastfeeding or medical conditions related to pregnancy, childbirth or breastfeeding; religion (including religious dress and grooming practices) or creed; marital status; registered domestic partner status; medical condition (including HIV and AIDS); citizenship; military and veteran status; sexual orientation; genetic characteristics; genetic information (including information from the employee's genetic tests, family members' genetic tests, and the manifestation of a disease or disorder in the employee's family member); political affiliation; as well as any other classifications protected by federal, state, or local laws and ordinances is a violation of this policy and will be treated as a disciplinary matter. This policy also prohibits harassment or discrimination based on the perception that a person has any of these characteristics or is associated with a person who has, or is perceived to have, any of these characteristics.

- B. **Retaliation**: CHSU prohibits any and all retaliation against any person covered by this policy for submitting a report of unlawful harassment or discrimination or for cooperating in any such investigation. CHSU does not tolerate harassment, discrimination or retaliation and is committed to an environment free of it.
- C. **Genetic Information (GINA)**: CHSU will not request that employees disclose genetic information with respect to their employment. However, in responding to CHSU's request for medical certification for a leave of absence or an accommodation, an employee may inadvertently provide genetic information about themselves. With this in mind, CHSU provides employees with the following information: The Genetic Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting, or requiring, genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, CHSU requests that employees not provide any genetic information when responding to CHSU requests for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
- D. **Submission of False Complaint**: Additionally, it is a violation of this policy to knowingly submit a complaint under this policy based on false allegations or to knowingly provide



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false information in connection with an investigation of a complaint processed under this policy.

- E. **No Exception for Academic Freedom:** CHSU recognizes and promotes its commitment to academic freedom and freedom of speech, as described in the Academic Freedom and Academic Dishonesty policy, and other applicable CHSU policies. The faculty and other academic appointees, staff, and students of CHSU enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws, such as the conduct prohibited by this policy.

V. APPLICABLE DEFINITIONS

The following definitions are applicable to this policy:

1. **Title IX Prohibited Conduct:** Title IX applies to all complaints of harassment or discrimination on the basis of sex. Conduct prohibited by Title IX includes sexual harassment, sexual discrimination, sexual assault, dating violence, domestic violence, stalking on the basis of sex, or other conduct prohibited under Section III of this policy which implicates sex or gender.
2. **Complainant:** Any person who files a report of alleged conduct or retaliation prohibited by this policy. Additionally, CHSU may consider any alleged victim to be a Complainant, whether or not the alleged victim makes the report or chooses to participate in the investigation and/or resolution process.
3. **Respondent:** A person alleged to have engaged in the prohibited conduct and about whom a report of such prohibited conduct is made. Additionally, when members of student group or organization or other individuals acting in concert violate these policies, they may be charged as a group or as individuals, and an investigation may proceed against the group as joint Respondents or against one or more involved individuals, as appropriate given available information and circumstances, in the sole discretion of CHSU.



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4. **Confidential Resources for Title IX Matters**: Licensed mental health counselors affiliated with or employed by CHSU are CHSU's confidential resources under Title IX ("Title IX Confidential Resources"). Confidential Resources are exempt from reporting under Title IX and this policy. This exemption does not extend to other areas of mandated reporting obligations under state or federal law, or Clery Act reporting requirement as a Campus Security Authority. No one other than a licensed mental health counselor is a confidential resource at CHSU for purposes of Title IX.
5. **Title IX Responsible Employee**: Any University employee who is not a Confidential Resource and who receives, in the course of employment, information that a student has or may have suffered Title IX Prohibited Conduct shall promptly notify the Title IX Coordinator. This also includes all employees who are also students of the University when the disclosure is made to them in their capacity as an employee. In addition, the following who, in the course of employment, receive a report of prohibited conduct under this Policy from any other person affiliated with the University shall notify the Title IX Coordinator.
6. **Discrimination**: Discrimination means excluding from participation, denying the benefits of, or otherwise subjecting an individual or group of individuals to different treatment based on a protected class. For example, unlawful discrimination may consist of a decision, policy or practice.
7. **Harassment**: Harassment is unwelcome verbal, visual or physical conduct creating an intimidating, offensive, or hostile work or educational environment that interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected characteristic.
8. **Preponderance of Evidence**: A standard of proof that requires that a fact be found when its occurrence, based on evidence, is more likely than not.



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9. Sexual Harassment:

- a. Sexual harassment is a form of gender discrimination, defined as unwelcome or unsolicited sexual advances, unwelcome requests for sexual favors, graphic or written statements, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:
 - i. *Quid Pro Quo*: a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program; or
 - ii. *Hostile Environment*: such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.
- b. Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents: (i) between any members of the University community, including faculty or academic appointees, staff, student employees, students, residents, interns, preceptors or clerkship supervisors, non-student or non-employee participants in University programs; (ii) in hierarchical relationships and between peers; and (iii) between individuals of any gender or gender identity.
- c. Sexual harassment need not be motivated by sexual desire. Examples of conduct that violates this policy include but is not limited to:
 - i. Obscene or vulgar gestures, posters, or comments;
 - ii. Sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies;
 - iii. Propositions, or suggestive or insulting comments of a sexual nature;



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- iv. Derogatory cartoons, posters, and drawings;
- v. Sexually-explicit e-mails or voicemails;
- vi. Uninvited touching of a sexual nature;
- vii. Unwelcome sexually-related comments;
- viii. Conversation about one's own or someone else's sex life;
- ix. Conduct or comments consistently targeted at only one gender, even if the content is not sexual; or
- x. Teasing or other conduct directed toward a person because of the person's gender.

10. **Sexual Violence Definitions:**

- a. Sexual Assault—Penetration: Without the consent of the Complainant, penetration, no matter how slight, of the vagina, anus, or mouth by a penis; or the vagina or anus by any body part or object.
- b. Sexual Assault—Contact: Without the consent of the Complainant, touching, an intimate body part (mouth, genitals, anus, groin, breast, or buttocks), whether clothed or unclothed.
- c. Aggravated Sexual Assault: Sexual Assault – Penetration and/or Contact are aggravated when it includes any of the following conduct (this list is not exhaustive):
 - i. Intentionally taking advantage of the other person's incapacitation (including voluntary intoxication).
 - ii. Recording, photographing, transmitting, or distributing intimate or sexual images without the prior knowledge and consent of the parties.



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- iii. Overcoming the will of the Complainant by:
 - a) Force (the use of physical force or inducing reasonable fear or immediate or future bodily injury);
 - b) Violence (the use of physical force to cause harm or injury);
 - c) Menace (a threat, statement, or act showing intent to injure);
 - d) Duress (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, considering all circumstances including age and relationship, to do or submit to something they would not otherwise do);
 - e) Deliberately causing a person to be incapacitated (through drugs or alcohol).

11. **Relationship Violence:**

- a. **Dating Violence:** Conduct by a person who is or has been in a romantic or intimate relationship with the Complainant that intentionally, or recklessly, causes bodily injury to the Complainant or places the Complainant in reasonable fear of serious bodily injury.
- b. **Domestic Violence:** Conduct by a current or former spouse or intimate partner of the Complainant, or a person with whom the Complainant shares a child in common, that intentionally, or recklessly causes bodily injury to the Complainant or another, or places the Complainant or another in reasonable fear of serious bodily injury.
- c. **Stalking:** Repeated conduct directed at a Complainant, which includes following, monitoring, observing, surveilling, threatening, communicating or interfering with property, of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their own safety, or the safety of others, or to suffer substantial emotional distress.



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- d. **Consent**: Consent is **affirmative, conscious, voluntary and revocable**. Consent to sexual activity requires of all persons involved an affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not alone constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity, even after penetration occurs. If confusion or ambiguity arises as to the willingness of the other individual to proceed, then consent should be re-obtained. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct). The Respondent's belief that the Complainant consented shall not provide a valid excuse where:
- i. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
 - ii. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
 - iii. The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was: asleep; unconscious; was unable to understand the fact, nature or extent of the sexual activity due to the influence of drugs, alcohol or medication; unable to communicate due to a mental or physical condition. Anyone engaging in sexual activity should be aware of the other person's level of intoxication.

12. **Other Prohibited Behaviors**:

- a. Invasion of Sexual Privacy:
 - i. Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable



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expectation of privacy;

- ii. Without a person's consent, making photographs (including videos) or audio recordings, or posting, transmitting or distributing such recorded material depicting that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
 - iii. Using depictions of nudity or sexual activity to extort something of value from a person.
- b. Sexual intercourse with a person under the age of 18.
 - c. Exposing one's genitals in a public place for the purpose of sexual gratification.
 - d. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this policy.
 - e. Any person in a position of power or influence that intentionally deters or hinders another person from reporting allegations of misconduct under this policy.
 - f. Instances of prohibited conduct under this Policy may occur within consensual romantic and sexual relationships. Accordingly, a report of prohibited conduct that occurs within the context of a consensual relationship will be treated as any other report.
13. **Retaliation Defined**: Retaliation means any adverse treatment including threats, intimidation, adverse employment or educational actions, against a person based on their report of alleged misconduct under this policy, or participation in the investigation, report, remedial or disciplinary process arising from this policy. Retaliation against someone for reporting or participating in an investigation and related processes constitutes prohibited conduct.

VI. REPORTING TO POLICE FOR CRIMINAL CONDUCT COVERED UNDER THIS POLICY

In an emergency situation, CHSU community members should call 9-1-1. CHSU encourages all



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members of its community who believe they are the victim of criminal behavior (including, but not limited to, criminal sexual violence) to report the conduct to the police even if significant time has passed since the incident. All members of the CHSU community may seek assistance in reporting the crime to law enforcement by contacting the Title IX Coordinator.

Complainants under this policy also may choose not to notify law enforcement. Regardless of whether a Complainant chooses to make a report to law enforcement, the Complainant may still file a Complaint under this policy. Additionally, regardless of whether the alleged misconduct rises to the level of a criminal offense, CHSU encourages all community members to report alleged discrimination, harassment, retaliation or sexual violence to CHSU as described below.

VII. REPORTING PROCESS AND PROCEDURES FOR COMPLAINTS UNDER THIS POLICY

The below procedures are intended to allow CHSU to respond to complaints of alleged discrimination, harassment, retaliation, including but not limited to Title IX Prohibited Conduct. Where Title IX requires special or different procedures, it is noted below.

CHSU cannot remedy claimed discrimination, harassment or retaliation unless such complaints are brought to its attention. Failure to report these claims prevents CHSU from taking steps to address the problem. If a CHSU community member observes a violation of this policy or believes someone has violated this policy, the member is strongly encouraged to report the incident, irrespective of whether the alleged victim files a complaint themselves. Responsible Employees who learn of such a complaint are required to bring it to the University's attention as described below.

- A. **Filing a Complaint:** Any complaint under this policy can be made directly to the Coordinator in person or via mail at 120 N. Clovis Avenue, Clovis, CA, 93612, or via email TitleIX@chsu.edu (for Title IX Prohibited Conduct) or Concerns@chsu.edu (for all other complaints). CHSU recognizes that complaints may be received by others within the CHSU community, such as ombudspersons, faculty advisors, co-workers, student affairs employees, etc. When complaints are received by such members of the CHSU community, that member has an obligation to report the complaint as described above.

1. **Timeline for Submitting Complaints.** While there is no time limit for submitting Complaints, reports of prohibited conduct should be brought forward as soon as possible because prompt reporting will better enable CHSU to respond, investigate, provide an



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appropriate remedy and impose a sanction if appropriate. However, all incidents should be reported even if significant time has elapsed.

2. Content of Complaint. CHSU prefers the Complaint be made in writing and identify the person(s) involved, what occurred and the identity of any witnesses. The Complaint should be specific and should include the names of the individuals involved and the names of any witnesses. Complainants are encouraged to use the Complaint form which is available at on the CHSU website. However, if a Complaint is not filed in writing but CHSU receives notice of any allegation(s) that is subject to this policy, CHSU shall take affirmative steps to investigate and address the allegation(s) in a manner appropriate to the circumstances. Complaints alleging retaliatory conduct shall also be reported in the same manner.
3. Confidentiality of Complaints. The University will protect the privacy of individuals involved in a report of prohibited conduct to the extent permitted by law and University policy and procedures. However, an investigation may involve interviews with several people to inquire if they have relevant evidence, and extremely sensitive information may be gathered. While such information will be kept as confidential as possible, the University may also be required to disclose certain information during or following an investigation.

B. Pre-Investigation Considerations and Notice

1. Initial Review of Complaint. Upon receipt of the complaint, the Coordinator will conduct an initial review the Complainant's allegation(s) to determine whether the complaint, on its face, plausibly alleges misconduct prohibited by this policy. Following the initial review, if the Coordinator determines that the complaint does not allege prohibited conduct under this policy, the matter may be closed without further action or investigation, or it may be forwarded to the appropriate party for processing under the applicable policy; in such a case, the Coordinator shall provide notice to the Complainant.
2. Investigation Requirements. Typically, all complaints under this policy will be investigated. For students alleging Title IX Prohibited Conduct, the University will strive to honor the stated wishes of the Complainant concerning whether to move forward with an investigation; however, if the Complainant requests that no



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- investigation occur, the Coordinator may determine that the allegations nonetheless require an investigation by law, policy or to mitigate a potential risk to the campus community.
3. Interim Measures. If the complaint alleges conduct prohibited by this policy, the Coordinator may consider and adopt interim measures. The Coordinator shall make an immediate assessment concerning the health and safety of individuals involved and the campus community, implement interim measures, and in Title IX cases provide to the Complainant a written explanation of rights and reporting options (including the right to make reports to the police) and available campus and community resources, including, but not limited to, options for seeking mental health counseling. The Coordinator will consider the need for additional or different interim measures throughout the process to ensure the safety, well-being, and equal access to University programs and activities of students and employees. Interim measures may serve to limit the effects of the alleged prohibited conduct and/or to protect the Complainant and other persons. Interim measures may include separating the parties, requiring the parties to abstain from communication with each other, or making alternative working or academic arrangements. Such interim measures shall remain in place until the Coordinator determines that they are no longer necessary or until a final written decision is issued, whichever occurs first. A person's failure to comply with interim measures may be considered a separate violation of CHSU policy. A decision about interim measures does not, however, constitute evidence or a finding of fact or of a policy violation.
 4. Assignment of Neutral Investigator; Notice to Complainant and Respondent. The Coordinator shall either directly investigate or assign a qualified neutral investigator to investigate the alleged misconduct ("Investigator"). The Coordinator shall have broad discretion in selection of a neutral investigator, provided that the assigned investigator has both the skills and resources necessary to conduct a complete investigation. All investigators will carry out their roles in an impartial manner. For allegations of Title IX Prohibited Conduct, the investigator shall execute their duties in keeping with trauma-informed practices. Before the investigation begins, the Coordinator will inform the Complainant and the Respondent that an investigation has commenced ("Notice"). Whenever practical, notice to the Complainant and Respondent shall be simultaneous. In cases involving an active law enforcement investigation, the Coordinator may determine that notice to the Respondent may interfere with the active criminal investigation. In this situation, the notice to the Respondent may be delayed



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for a reasonable period of time. Generally, the written notice will include the following if applicable:

- a. The identity and contact information for the Investigator.
- b. A summary of the reported conduct that potentially violated the University Policy and/or student conduct policy
- c. Any interim measures that have been imposed;
- d. The purpose of the investigation and a statement that the investigation is the part of the process where all known and/or available evidence and information must be introduced and considered;
- e. The importance of preserving evidence that may assist in proving that a criminal offense occurred or in obtaining a protection order;
- f. A statement that the investigation will make factual findings and a recommendation regarding whether there has been a violation of this University Policy and/or CHSU Student Professionalism and Conduct Policy;
- g. A statement that the findings and recommendation will be based on a Preponderance of Evidence standard;
- h. A summary of the process, including the expected timeline;
- i. An admonition against Retaliation; and
- j. A summary of rights and resources available to the Complainant and Respondent.

C. Investigation Process

1. Assignment of Neutral Investigator; Notice to Complainant and Respondent. The Coordinator shall either directly investigate or assign a qualified neutral investigator to



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- investigate the alleged misconduct (“Investigator”). The Coordinator shall have broad discretion
2. Timeline and Standard of Proof. Generally, the entire investigation shall be complete within sixty (60) business days from the issuance of the Notice. The University will complete the entire process set forth in this policy, including all appeals, promptly, typically within one hundred and thirty-five (135) business days from the date of the Notice. This deadline and all deadlines contained herein may be extended consistent with this policy and for good cause shown and documented. The Complainant and Respondent will be notified in writing of any such extensions and the reasons for the extension and the projected new timeline.
 3. Coordination with Law Enforcement. When a law enforcement agency is conducting its own investigation, the Investigator should coordinate their fact-finding efforts with the law enforcement investigation, consistent with this policy. A delay resulting from such coordination may be cause for extending the timelines to complete the process and if so, the delay will be communicated and documented in accordance with this policy.
 4. Investigation Interviews. During the investigation, the Investigator shall provide the Complainant and Respondent an equal opportunity to meet with the Investigator, submit information, and identify witnesses who may have relevant information. The Investigator will meet separately with the Complainant, Respondent, and third-party witnesses who may have relevant information, and will gather other available and relevant evidence and information. The Investigator may follow up with the Complainant, the Respondent and witnesses as needed to clarify any inconsistencies or to discuss new information gathered during the course of the investigation.
 5. Title IX Procedure – Cross-Examination. In Title IX cases only, during the investigation the Complainant and Respondent will have the opportunity to propose questions for the investigator to ask each other and/or other witnesses. The Investigator retains discretion to determine what proposed questions to ask, and may decline to ask questions that are, for example, repetitive, harassing or not relevant to whether the reported violation(s) occurred.
 6. Consideration of Evidence – Credibility. The Investigator may determine and weigh the relevance of any witness or other evidence to the findings and may exclude certain



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types of evidence or information that are irrelevant or immaterial. As part of this analysis, the Investigator shall make credibility assessments of the Complaint, Respondent and all witnesses involved. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of prohibited conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a University Policy violation, may be deemed relevant to the determination of responsibility for the allegations under investigation.

7. Title IX Procedure – Evidence of Sexual History. In Title IX cases only, as a general rule the sexual history of a Complainant or Respondent will not be considered. Sexual history evidence that is offered to prove a party's reputation or character will never be considered for that purpose. However, in limited circumstances, sexual history may be directly relevant to the investigation. For example, while the Investigator will never assume that a past sexual relationship between the parties means the Complainant consented to the specific conduct under investigation, evidence of how the parties communicated consent in past consensual encounters may help the investigator understand whether consent was given, or reasonably believed to be given, during the encounter under investigation.
8. Title IX Procedure – Student's Opportunity to Review and Respond. In a Title IX case where the Respondent is a student, the Complainant and Respondent shall have an equal opportunity to review and respond to the information that the Investigator has deemed relevant. Before the investigator concludes the fact finding and finalizes a written report, the Investigator will ensure that both Complainant and Respondent have had an opportunity to review and respond to the information that the Investigator has deemed relevant, including a draft of the Investigation report, a summary of relevant statements made by the parties (if there are any), and any relevant documentary evidence. The Investigator will ensure that this review occurs in a manner designed to protect the privacy of both parties as much as possible. The Investigator will designate a reasonable time for this review and response by the parties that, absent good cause found by the Investigator, will not exceed five (5) business days.
9. Investigation Report and Recommendations. The Investigator shall prepare a written report that includes a statement of the allegations and issues, the positions of the parties, a summary of the evidence, an explanation why any proffered evidence was not investigated, findings of fact, credibility determinations when appropriate, an analysis



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of whether a violation has occurred, and a recommendation regarding whether there are any policy violations. If the Complainant or Respondent offered witnesses or other evidence that was not considered by the investigator, the investigation report will include an explanation of why it was not considered.

10. Title IX Procedure – Student’s Opportunity to Respond to Final Report. Only in Title IX cases where the Respondent is a student, the Investigator shall provide the Complainant and Respondent five (5) calendar days to review the final investigation report. The Complainant and Respondent may submit a statement in writing no later than five (5) calendar days after receiving the report. Any such statement shall be attached to the final investigation report. The written statement is not an opportunity to present new evidence with respect to either the factual findings or a policy violation recommendation; rather, it is an opportunity to comment on whether the facts, as found, constitute a policy violation and, if applicable, to comment on the imposition of sanctions.
11. Investigation File. The full investigation file, including the final report and any documentary evidence relied upon by the Investigator, shall be maintained by the Coordinator.
12. Title IX Procedure – Investigation File Access. In Title IX matters only, the investigation file shall be made available to the Complainant and Respondent for inspection upon their request; however, it may be redacted to protect privacy rights.

C. Findings and Sanctions

1. Notice of Findings and Recommendation Regarding Policy Violation. Upon completion of the investigation, the Coordinator will send to the Complainant and the Respondent a written notice of the investigation findings and the investigator’s recommendations. The written notice of the findings and recommendations will include the following:
 - a. the findings of fact, including recommendations regarding whether any University policies have been violated;
 - b. an admonition against intimidation or retaliation;



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- c. an explanation of any interim measures that will remain in place; and
- d. a statement regarding the process by which sanctions, if any, will be determined described below.

2. Process for Sanctions.

- a. Respondent Employees: Employee discipline, if any, will be governed by applicable human resources policies, procedures and/or employee contract provisions. The investigation and determination of misconduct which took place under this policy, shall serve as the investigation and determination of misconduct required by any applicable employee policy or process.
- b. Respondent Third-Parties: For Respondents who are third-parties, corrective action and remedial measures shall be handled by the Office of Human Resources, in consultation with appropriate members of the CHSU administration and legal counsel, as needed.
- c. Title IX Procedure – Respondent Students: For matters involving Title IX Prohibited Conduct, student discipline, if any, will be determined by the Student Review Panel, as described in section VII.E, below. This section shall apply to cases where the matters involved both Title IX Prohibited Conduct and other types of conduct prohibited under this policy.
- d. Non-Title IX Matters – Respondent Students: For matters other than those involving Title IX Prohibited Conduct, student discipline, if any, will be determined by the Assistant/Associate Dean for Student Affairs (“College Student Affairs Dean”) in the student’s college. The College Student Affairs Dean may determine sanctions directly, may refer the student to the Student Review Panel, or may refer the student to the college-specific professionalism review committee. In cases referred to the Student Review Panel, the procedures set forth below in section VII.E shall apply. In cases referred to the college-specific professionalism review committee, such committee shall receive a copy



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of the investigation file and shall process the matter according to its own procedures.

D. Student Review Panel.

1. Student Review Panel Members and Purpose. The Provost shall appoint a standing Student Review Panel comprised of three (3) administrators and shall appoint one such member to serve as Panel Chair. The Student Review Panel shall review the investigation findings and recommendation of policy violation. Following this review, the Student Review Panel will determine whether the charged violation(s) of this Policy and/or other relevant student conduct policies occurred, and determine an appropriate sanction, if applicable.
2. Pre-Hearing Procedures; Notice of Hearing to Respondent and Complainant. Upon receiving a case, the Panel Chair will send a written notice to the Complainant and the Respondent informing them of the hearing date, time, location and procedures at least fifteen (15) calendar days before the hearing. At least ten (10) calendar days prior to the hearing, the Complainant and the Respondent will submit to the Student Review Panel the information they intend to present at the hearing, including all documents to be presented, the names of all requested witnesses, and a brief summary of such witnesses' expected testimony. At least three (3) calendar days prior to the hearing, the Complainant and the Respondent will receive copies of all the information that will be considered at the panel hearing, including: (a) the investigation file (if permitted VII.C., above); (b) any other documents to be considered by the Student Review Panel; (c) the names of potential witnesses; (d) and a summary of the information they are expected to provide at the hearing. Such documents will also be provided to the Coordinator.
3. Student Review Panel Guidelines. Prior to the hearing and/or during the appeal hearing, the panel hearing may:
 1. Approach each case without any preconceived ideas of the responsibility of the parties involved prior to reading the investigative report;
 2. Thoroughly review all case materials prior to the hearing by the panel;



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3. Exclude information and/or witness testimony that is irrelevant in light of the grounds for appeal, not in dispute, or unduly repetitive;
 4. Decide any procedural issues;
 5. Make any other determinations necessary to ensure an orderly, productive, and procedurally proper appeal hearing;
 6. During deliberations allow all panel members to be heard and consider differing views before a decision is reached;
 7. Impose clear and proportionate outcomes for those found to be responsible for violations of this policy;
 8. Corrective action, remedial measures and/or discipline imposed by the Student Review Panel shall emphasize education, personal growth, accountability and ethical behavior—upholding standards of responsible conduct to protect the welfare of the University Community. These standards are intended to ensure the consistent and proportionate application of disciplinary sanctions by the University in responding to conduct that violates the University's policies. When a student is found responsible for violating this policy the University will assign disciplinary sanctions that are proportionate and appropriate to the violation, taking into consideration the context and seriousness of the violation. Disciplinary sanctions should be designed to hold a student accountable for violating University standards of conduct and to promote personal growth and development. Disciplinary sanctions also serve the purpose of stopping prohibited conduct under this policy and preventing its recurrence.
4. Student Review Panel Hearing Procedures. The Investigator shall be available to appear as a witness at the hearing. The Student Review Panel has discretion regarding whether to call the Investigator or other witnesses at the hearing, and to either grant or to deny requests from the Complainant or Respondent to have witnesses appear. The Student Review Panel may question the investigator or any other witness, as well as the Complainant, and/or the Respondent. The investigation file will be entered as evidence at the hearing. The panel may allow the Complainant, Respondent, and/or



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- witnesses to be visually or physically separated during the panel hearing. This may include, but is not limited to, the use of a physical partition, a separate physical location, videoconference and/or any other appropriate technology. To assess credibility, the Student Review Panel must be able to have sufficient access to the Complainant, Respondent, and any witnesses presenting information. The Complainant and Respondent will have the opportunity to present the information they submitted (unless excluded by the Student Review Panel). The Student Review Panel has discretion to accept or exclude additional information presented at the appeal hearing. The Complainant and Respondent have the right to be present to hear (or, if deaf or hard of hearing, to access through auxiliary aids) testimony of all individuals who testify at the hearing and to propose questions to be asked of all individuals who testify at the hearing. The Complainant and Respondent shall propose questions by submitting them to the Panel Chair. The Panel Chair will determine the order of questioning. Whenever possible, the Chair of the panel will ask the questions as they are submitted by the Complainant and Respondent and will not rephrase or change them. The Panel Chair may, however, exclude or modify questions that are unduly repetitive, not relevant, harassing, or unduly time consuming. The panel hearing will not be audio or video recorded. Formal rules of evidence will not apply. The Student Review Panel may consider the form in which information is presented, as well as the credibility of any party or witness at the hearing, in weighing the information and reaching its decision.
5. Panel Deliberations. The Student Review Panel will deliberate in private and reach a decision based on a Preponderance of Evidence standard. The Student Review Panel may continue the deliberations to a subsequent meeting if needed. The Student Review Panel shall attempt to reach consensus on a decision, but the majority shall make the decision if consensus cannot be reached. The Student Review Panel may make its own findings and credibility determinations based on all of the evidence before it. In reaching its decision, it shall consider the record developed by the Investigator and the evidence presented at the hearing to assess the appropriate discipline in each individual case. Additionally, the Student Review Panel may:
- a. Remand for further investigation or consideration by the Investigator;
 - b. Uphold the investigation findings of fact and impose disciplinary sanctions on the Respondent and/or groups of individuals such as student organizations;
 - c.



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- d. Overturn the findings and impose or not impose disciplinary sanctions;
 - e. Modify the findings and impose disciplinary sanctions; or
 - f. Set aside the findings and remand to the Title IX office for further investigation.
6. Possible Sanctions. The Student Review Panel may impose one or more of the following sanctions, or other appropriate sanctions (this list is not exhaustive): (i) dismissal from the University; (ii) suspension from the University; (iii) mandated counseling and/or training; (iv) exclusion from areas of the campus or from official University functions or activities; (v) loss of privileges and exclusion from activities; (vi) restitution; (vii) probation; (viii) warning; (ix) and/or, other actions as set forth in University policy and campus regulations or under the procedures of the student's college.
7. Written Decision of Student Review Panel. The Student Review Panel will summarize its decision in a written decision ("Decision") provided to the Respondent and the Coordinator within ten (10) calendar days of the final deliberation. that includes the following:
 - a. A summary of the process undertaken by the panel;
 - b. A summary of the information considered by the panel;
 - c. A determination regarding the finding of a policy violation and the rationale for such finding;
 - d. Where the findings are overturned or modified, an explanation of why the findings were not reasonable, how the procedural error or new information materially affected the findings, either at the time they were made or in light of the evidence considered by the panel;
 - e. The sanction to be imposed (if any);



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- f. Appeal rights and a statement that both the Complainant and Respondent will receive notice of any appeal granted.
8. Notice to Complainant of Final Outcome. In all cases, the Complainant shall receive notice of the Student Review Panel's final decision regarding whether a policy violation occurred and notice of appeal rights. Additionally, the Complainant shall receive information regarding any sanction imposed that directly relates to the Complainant (e.g., no contact sanctions, etc.). Further, in cases involving sexual assault, domestic violence, dating violence, stalking or other sexual violence, the Complainant shall be notified of all sanctions imposed, as required by federal law.
9. Appeal Rights. An appeal must be submitted in writing to the Office of the Provost within five (5) calendar days following issuance of the Decision. The Complainant and Respondent shall have an equal opportunity to appeal the panel findings and/or sanctions decision for any reason in writing to the Provost. Any case may be appealed where the Complainant or Respondent seek to change the findings of policy violation or sanctions, for any reason. If a request for an appeal is submitted, any disciplinary sanctions ordinarily will not be imposed until the appeal, and review process is completed. Interim measures, such as no contact orders, academic accommodations, etc. will ordinarily remain in effect during the appeal process but may be modified as appropriate. If an appeal is requested, the non-appealing party will receive a copy of the written request for appeal and may submit a written response within five (5) calendar days after receiving the written request. Following review of all available evidence and any written statements submitted by both Parties, the Provost will issue a written decision, including an explanation of their rationale, to the Complainant and Respondent, normally within ten (10) business days after the request for appeal is received. The Provost's decision shall be final and non-appealable. In the event the Provost has a conflict, the President shall issue the decision on the request for appeal.

VIII. STUDENTS AND EMPLOYEES – FILING COMPLAINTS WITH OUTSIDE AGENCIES

CHSU encourages all students and employees who believe they have been subjected to unlawful discrimination or harassment to bring their concerns to the University so that appropriate action can be taken.



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The U.S. Equal Employment Opportunity Commission (“EEOC”) and the California Department of Fair Employment and Housing (“DFEH”) investigate reports of unlawful harassment, and sexual violence in employment. The U.S. Department of Education Office for Civil Rights (“OCR”) investigates reports of unlawful harassment and sexual violence by students in educational programs or activities. These agencies may serve as fact finders and attempt to facilitate the voluntary resolution of disputes. For more information students/employee may contact these agencies as described below:

Students may file complaints regarding protected-class discrimination or harassment to the Office for Civil Rights (OCR) with the U.S. Department of Education at 800-421-3481 or as otherwise provided at ocr@ed.gov.

An employee of CHSU may file a complaint with the Department of Fair Employment and Housing (1-800-884-1684; <http://www.dfeh.ca.gov>) or the U.S. Equal Employment Opportunity Commission (1-800-669-4000; <http://www.eeoc.gov>).

While it is not required that you exhaust the CHSU’s internal investigation process before contacting a governmental agency, CHSU encourages all members of the CHSU community to take advantage of the CHSU’s process for resolving harassment, discrimination and retaliation concerns and complaints.

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- Policy Owner: Provost
 - Effective Date: 11/01/2017
 - Effective Date: 7/19/2019
 - President Approval Date: 7/19/2019
 - Provost Approval Date: 7/19/2019